IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2592 of 2005

Chembur Abhyudaya Tenants Co-op. Housing Society Ltd. through its Constituted Attorney Mehul Navalkishore Parekh .....Petitioners

Versus

1.State of Maharashtra)
through Ministry of Revenue)
and Forest & Ors.)..Respondents

Mr. T.N. Subramaniam, Senior Counsel with Mr. Parish Jaiswal i/b. Ganesh & Co., for the Petitioners.
Mr. K.R. Belosey, AGP for Respondent Nos. 1 and 2.
Mrs. P.A. Purandhare for Respondent Nos. 3 and 4.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATE : 5TH OCTOBER 2006

P.C.

. The issue of law which arises in this petition was in issue in Writ Petition No.3119 of 2003. For the similar or same reasons given in the judgment in Writ Petition No.3119 of 2003 this petition is also disposed of by issuing the following directions:-

(i) The Letter/Circular dated 31st October, 2001 to the extent that it directs the occupants of land taken from the Government to produce a N.O.C. from the Collector is without the authority of law.

(ii) However, considering the object behind issuing the Letter/Circular of 31st October, 2001 we direct the respondent No.2 on an application being received in respect of the lands which are received from the Government under the provisions of the Land Revenue Code or other enactments to intimate the details of the same to Respondent No.1 within four weeks of receipt of such

Application. On receipt of such application it will be open to respondent No.1 to take such steps in law which they are entitled to.

(iii) The order dated 15th March, 1999 issued under Section 154 of M.R.T.P. Act is illegal, null and void order.

(iv) The respondent No.1 before taking any steps shall issue notice to the occupants and/or a transferee from the occupant and after giving an opportunity, to pass appropriate orders which they are entitled to under the law in force and by following due procedure.

(v) Considering the controversy we need not decide the issue as to the type of the land and other issues raised and all these issues are left open for consideration by the appropriate Authority of the respondent No.1 who is vested with such power.

(vi) The amount of Rs.50,000/- which has been deposited to continue to remain deposited till such time as the Collector/Respondent No.1 takes action according to law. If after hearing the petitioners/occupants the Authority comes to the conclusion that the amount is not due and payable the same shall be refunded to the petitioner/ocupant.

(vii) The respondent No.1 in the case of those petitions, which have been disposed off by this Court, to commence the process within six weeks from today and complete the process not later than nine months from today.

(viii) In so far as the consequential orders passed by the respondent No.2 based on the Letter/Circular dated 31st October, 2001 the same would be of no effect and are

consequently quashed and set aside. We, however, make it clear that it will still be open to respondent No.2 Planning Authority to exercise whatever powers it has under the provisions of the Maharashtra Regional Town Planning Act, 1966 and the D.C.Regulations and this order will not stand in their way.

(ix) In so far as the undertakings are concerned, the petitioners are released from the undertakings. However, it is made clear that the petitioners will be bound to make any good the amount as set out in the undertaking on the Government fixing a policy, if the petitioners are held to be liable, but subject to the rights of the petitioners to challenge the validity of the order passed on that policy.

(x) In the event the petitioners do not have the original of the title document on an application being made by the petitioners/ocupants to respondent No.1 the said document be made available so as to enable the petitioners/occupants to make good their case before the respondent No.1 or it any authority before whom the proceedings will commence.

. Rule made absolute accordingly. No order as to costs. Liberty to the parties to apply.

(**F.I. REBELLO, J.**)

(ANOOP V. MOHTA, J.)